IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

JAMES J. ABLAN, et al.)	
Plaintiffs,) Civil Action No. 11 CV 4	493
v.) Hon. Charles R. Norgle	
BANK OF AMERICA)	
CORPORATION, et al.)	
Defendants.)	
	ODDED	

ORDER

The Court adopts the findings and conclusions of the Magistrate Judge's August 8, 2014 Report and Recommendation [136]. Defendants' Motion to Strike Plaintiffs' Damages Claim [106] is granted.

STATEMENT

Before the Court is the Report and Recommendation ("Report") by the Magistrate Judge with respect to Defendants' Motion to Strike Plaintiffs' Damages Claim pursuant to Federal Rule of Civil Procedure 37(c)(1). For the following reasons, the Court adopts the findings of the Magistrate Judge, as set forth in his Report.

The Magistrate Judge issued the present Report, finding that Plaintiffs failed to timely disclose their damages claim for an additional \$129,531.25 based upon unpaid mortgage incentive fees. In its initial disclosures, a plaintiff should disclose its computation of damages. Fed. R. Civ. P. 26(a)(1)(A)(iii). If a party fails to make the proper disclosures, the party is not allowed to use the new evidence "unless the failure was substantially justified or harmless." Fed. R. Civ. P. 37(c)(1). The Magistrate Judge found that Plaintiffs' additional damage claim is neither justified nor harmless. The Report recommends that the Court grant Defendants' motion to strike Plaintiffs' damages claim.

"A party may serve and file objections to [a magistrate's] order within 14 days after being served with a copy." Fed. R. Civ. P. 72(a). Then, the Court "must consider timely objections and modify or set aside any part of the order that is clearly erroneous or contrary to law." <u>Id.</u>; <u>see</u> 28 U.S.C. § 636(b)(1)(A); <u>see also Weeks v. Samsung Heavy Industries Co., Ltd.</u>, 126 F.3d 926, 943 (7th Cir. 1997). Plaintiffs have not filed any objections to date, and the fourteen day deadline has since expired.

Following a review of the record, the Court concludes that the Report is not clearly erroneous. Weeks, 126 F.3d at 943 ("[T]he district court can overturn the magistrate judge's

ruling only if the district court is left with a definite and firm conviction that a mistake has been made."). Accordingly, the Court adopts the findings of the Magistrate Judge, as set forth in his Report. The Defendants' motion to strike Plaintiffs' damages claim is granted.

IT IS SO ORDERED.

ENTER:

CHARLES RONALD NORGLE, Judge

United States District Court

DATE: November 24, 2014